

This case is a perfect example of what is wrong with FOI in Alberta. The decision to even require a fee-waiver request in this case is perverse and the public body's denial, even more so. In my view, the public body looked for a way to deny the waiver, rather than consider the public interest in an open minded way that recognizes the public should have a right to this information at no cost.

These sorts of records are readily available federally, at no cost, and journalists routinely access them to inform the public about what the government was thinking when it introduced public legislation. Doesn't that go to the heart of what journalists do in the public interest? Isn't that why journalists are afforded special rights under the Charter and in other ways? Exactly because we seek out and provide information on the public's behalf, in the public's interest? That legally recognized fact seems to be entirely lost on this public body.

The public body cites Order F2006-32. Boiled down, it says the public may be concerned about an issue if it comes to know about it. The adjudicator goes on to say there must be convincing evidence or argument that a hidden problem exists.

After citing this ruling, the public body concedes electrical deregulation is a common issue in public and political debate (see attached stories), it concludes there is no evidence that the government's thought process on the introduction of electrical deregulation over 10 years ago is currently of public interest.

It is my submission that if the public is allowed to compare what the government actually knew about the potential of electrical deregulation to achieve what was being publicly promised, with what has actually occurred - ie. the highest electrical rates in Canada, ongoing market volatility (see the attached Alberta's power jolt: A decade after deregulation, consumers face a wild ride with electricity prices), the huge ongoing effect on our economy, brown outs - the public would certainly be better informed in many ways that could serve the public interest and inform public debate and potentially force change in the public interest.

I would argue that in this case, the problem isn't hidden; it's blatantly in the open. The records I seek must have public-interest value because either the government knew its public policy would not work as claimed, or it was entirely wrong about how it would work. Either way, the public should know how our government put us in the situation we are in today. Shouldn't we have a right to know that?

The public body argues that few people call the Utilities Consumer Advocate. Perhaps so, but it is my belief that the public views the provision of electrical utilities exactly as they view gasoline prices; they complain to each other, but have no belief that the government will do anything about it. (I note that Alberta's previous Utilities Consumer Advocate, David Gray, resigned saying his position was essentially useless) Put another way, no one complains to the Utilities Consumer Advocate because most people wouldn't know such a person exists and wouldn't trust him to help even if they did. In reality, what can he do about a volatile market and comparatively high electrical rates? I can't understand how the public body would conclude this a measure that relates to my fee-waiver request. It is irrelevant.

The public body then cites its analysis of news stories. With all due respect to the public body, they need have looked no further than the Jan. 22, 2012 Edmonton Journal story, included in this package, to

determine the public should have a right to know what the government was thinking when it decided to introduce, what has clearly been, a disastrous public policy. Let's be frank: the government doesn't even seriously defend the policy, other than occasional damage control.

In summation, based on my discussions with the public body's FOIP coordinator, I had absolutely no faith whatsoever, and I told her this, that my request for a fee waiver would be dealt with objectively. It is my view that no argument I advanced would have resulted in a fee waiver.

If records that relate to a utility policy that affects every single Albertan every single day, that has resulted in industry leaving the province, that has been a major issue in every election since its introduction, are not in the public interest, it would be difficult for most right-thinking people to understand what would be in the public interest.

To me, this case is exactly like the partial fee-waiver denial in the recent case involving the expenses of former Alberta Health Services executive Allaudin Merali. Incredibly, that public body also argued the records were not in the public interest because the public had shown little interest in them. We know how interested the public was in those records.